

REMARKS

Claims 1-44 and 65-103 are pending in this application. By this Amendment, claims 45-64 have been canceled without prejudice to or disclaimer of the subject matter contained therein. Claim 1 has been amended to correct informalities. No new matter has been added.

I. Election of Species/Restriction Requirement

Claims 24-35, 43 and 65-103 have been withdrawn from consideration. Claims 1-23 and 36-44 read on the elected Species. At least claims 1 and 8 are generic to all species. Accordingly, rejoinder of claims 24-35 and 43 is respectfully requested upon the allowance of any of the generic claims.

Further, MPEP §821.04(b) recites, in relevant part, "withdrawn process claims which depend from or otherwise require all the limitations of an allowable product claim will be considered for rejoinder." Accordingly, rejoinder of the method claims 65-103 is respectfully requested upon the allowance of any product claim from which they depend.

II. 35 U.S.C. §102 Rejection

The Office Action rejects claims 1-2 and 9-16 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,800,879 (hereinafter "Golyakhovsky"). This rejection is respectfully traversed.

Golyakhovsky fails to disclose, teach or suggest the cannula of claim 1 a second portion "wherein the second portion has a hole in fluid communication with the chamber and adapted to receive a section of tissue and at least one sealing surface adapted to secure the section of tissue when the first and second portions are brought together."

Golyakhovsky discloses a vascular occluding device for interrupting blood flow in veins or arteries during vascular surgery. Referring to Fig. 2, the device of Golyakhovsky includes two plastic arms 1, 2 connected at one end by a hinge 3 and capable of being secured together in a closed position at another end by a toothed latched 14a such that inner surfaces

6, 7 of the plastic arms 1, 2 confront each other. The inner surfaces 6, 7 of the plastic arms 1, 2 have cavities 8, 9, respectively, formed therein which are shaped to conform to the blood vessel to be occluded.

The Office Action appears to be alleging that when the plastic arms 1, 2 are brought together, the cavities 8 and 9 together correspond to the chamber of claim 1. The Office Action further alleges that the cavity 9 corresponds to the hole of claim 1. However, the hole of and the chamber of claim 1 are distinct structures. On the other hand, the cavity 9 of Golyakhovsky is part of the enclosure formed when the plastic arms 1, 2 are brought together (the alleged chamber). Therefore, Golyakhovsky fails to disclose both the chamber and the hole of claim 1.

Applicants further respectfully assert that Golyakhovsky fails to disclose a first fitting in fluid communication with a chamber, as recited by claim 1. Golyakhovsky discloses that the inner surface 6 of the upper plastic arm 2 is lined with a plastic balloon 10 that is partially-inflated and capable of being further inflated by way of a one-way valve 11 that communicates between the outside atmosphere and the balloon 10 (see col. 3, lines 40-51). Thus, Golyakhovsky provides no disclosure, teaching or suggestion that the one-way valve 10 provides fluid communication with the enclosure formed between the two plastic arms 1, 2 (alleged chamber).

Further, even if it is assumed that the enclosure formed when the plastic arms 1, 2 are brought together corresponds to the chamber of claim 1, Golyakhovsky still fails to disclose "a hole in fluid communication with the chamber and adapted to receive a section of tissue," as recited by claim 1. As noted above, the chamber and the hole of claim 1 are distinct structures. Further, Golyakhovsky discloses that the balloon 13, which lines the inner surface 7 of the lower arm 1 and is centered in the cavity 9 (alleged hole), is permanently partially-inflated to a desired degree of inflation, and that the device is not constructed with

any means for further inflating the balloon 13 (see col. 3, lines 57-63). Thus, the balloon 13 which is provided in the cavity 9 (alleged hole) is not in fluid communication with either the one-way valve 11, the balloon 10, or the enclosure formed as a result of cavities 8, 9 being brought together.

Therefore, claim 1 is patentable over Golyakhovsky. Further, claims 2 and 9-16, which depend either directly or indirectly from claim 1, are patentable for at the reason of their dependence from claim 1, as well as for the additional features they recite.

Accordingly, withdrawal of the rejection is respectfully requested.

III. 35 U.S.C. §103 Rejections

The Office Action rejects claim 3 under 35 U.S.C. §103(a) as being obvious over Golyakhovsky; rejects claims 4-8, 36-40 and 42 under 35 U.S.C. §103(a) as being obvious over Golyakhovsky in view of U.S. Patent No. 6,726,651 (hereinafter "Robinson"); rejects claims 17 and 41 under 35 U.S.C. §103(a) as being obvious over Golyakhovsky in view of U.S. Patent No. 3,538,915 (hereinafter "Frampton"); and rejects claims 18-23 and 44 under 35 U.S.C. §103(a) as being obvious over Golyakhovsky in view of U.S. Patent No. 5,814,016 (hereinafter "Valley"). These rejections are respectfully traversed.

Golyakhovsky fails to disclose each and every feature of independent claim 36. Specifically, Golyakhovsky fails to disclose at least "a portion extending from the cannula body that defines a lumen that is in fluid communication with the first fitting," as recited by claim 36.

As noted above, Golyakhovsky fails to disclose, teach or suggest each and every feature of independent claim 1.

Further, Golyakhovsky fails to disclose a lumen. The device of Golyakhovsky is designed to occlude blood vessels during vascular surgery. Thus, the device of Golyakhovsky provides no structure for allowing fluid flow between an external source and a blood vessel.

The one-way valve 11 provides fluid flow to the balloon 10 to inflate the balloon 10 and cause it to occlude the blood vessel. However, fluid flow is never provided to the blood vessel itself.

Further, Robinson, Frampton, and Valley fail to cure the deficiencies of Golyakhovsky. Frampton discloses a intravenous infusion needle and Robinson and Valley are directed to devices for inducing cardioplegic arrest. However, none of the applied references, in any combination, disclose, teach or suggest at least "a first fitting on one of the first and the second portions, the first fitting in fluid communication with the chamber; wherein the second portion has a hole in fluid communication with the chamber and adapted to receive a section of tissue and at least one sealing surface adapted to secure the section of tissue," (emphasis added) as recited by claim 1 and "a portion extending from the cannula body that defines a lumen that is in fluid communication with the first fitting; and a second fitting on the cannula body, the second fitting in fluid communication with at least one of the first fitting and the lumen," (emphasis added) as recited by claim 36.

Therefore, claims 1 and 36 are patentable over the applied references, in any combination. The dependent claims are also patentable over the applied references in any combination at least for their dependence from either claim 1 or claim 36, as well as for the additional features they recite.

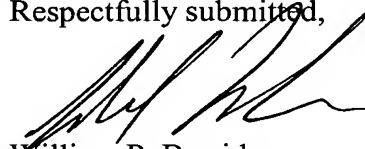
Accordingly, withdrawal of the rejections is respectfully requested.

IV. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachment:

Petition for Extension of Time

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